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MEMO ENDORSED

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USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 11/20/2019

November 20, 2019

VIA ECF

Honorable Valerie E. Caproni
United States District Court for the Southern District
of New York
United States Courthouse
40 Foley Square, Rm. 240
New York, New York 10007

Re: Rekor Systems, Inc. v. Loughlin, et. al. Case No. 1:19-cv-07767-VEC (S.D.N.Y.) –
Consented Request for an Extension and Adjournment of Initial Pretrial Conference

Dear Judge Caproni:

We represent Plaintiff Rekor Systems, Inc. (“Rekor”) and the eleven new Counterclaim Defendants¹ in the above-referenced action. (Rekor and Counterclaim Defendants are referred to collectively as “Rekor Parties”). We write, with the consent of Defendants’ counsel, to request an extension for Rekor Parties to respond to Defendants’ affirmative defenses and counterclaims, which Defendants filed on November 4 (Dkt. No. 22), and to request an adjournment of the Court’s December 6 initial pretrial conference.

On October 15, the Court granted Defendants’ request to extend their due date to respond to Rekor’s amended complaint by 30 days. (Dkt. No. 21). As reflected in Defendants’ October 14 letter seeking an extension, Rekor consented to that request in exchange for Defendants’ agreement not to oppose a 30-day extension for Rekor to respond to Defendants’ responsive pleading. (Dkt. No. 20).

¹ The eleven new “Counterclaim Defendants” refer to Firestorm Solutions LLC and Firestorm Franchising LLC, which are subsidiaries of Rekor, and to Robert Berman, Eyal Hen, James McCarthy, Paul de Bary, Glen Goord, Christine Harada, David Hanlon, Richard Nathan, and Steven Croxton, who are directors, or officers, or both, of Rekor.

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On November 13, Defendants filed an answer with five affirmative defenses and nineteen counterclaims, adding the eleven new Counterclaim Defendants. Under the agreement reflected in Defendants' October 14 letter, Rekor's deadline to respond to Defendants' affirmative defenses and counterclaims would be January 3.² We agreed to accept service of Defendants' counterclaims on behalf of the eleven new Counterclaim Defendants' on November 19, and the Counterclaim Defendants waive any defenses with respect to service. In exchange, Defendants agreed to a 30-day extension of Counterclaim Defendants' response date to January 9.³

Rekor Parties have conferred with Defendants, and Defendants now agree to an extension to make the response date the same for all Rekor Parties. Accordingly, the Rekor Parties request, with the consent of Defendants, a deadline of **January 9, 2020** to respond to Defendants' counterclaims and affirmative defenses.

Given the number of new parties added by Defendants' November 13 filing and the number of Defendants' counterclaims, the extension should be granted to allow the parties sufficient time to investigate the new counterclaims and allegations. The parties further submit that the Court's December 6 initial pre-trial conference should be postponed so that they can adequately confer on the new counterclaims, and so that all parties—Counterclaim Defendants included—may be placed on a uniform schedule for holding a Rule 26(f) conference, exchanging initial disclosures, and submitting a case management plan to the Court before the initial pretrial conference.

The parties propose the following adjusted schedule:

- **January 9, 2020:** Due date for Rekor Parties to respond to Defendants' affirmative defenses and counterclaims;
- **January 24, 2020:** Due date for the parties to jointly submit a case management plan and letter to the Court;
- **January 31, 2020:** Date for initial pre-trial conference.

All parties will hold a conference in accordance with Federal Rule of Civil Procedure 26(f) on or before January 15, and will exchange initial disclosures in accordance with Federal Rule of Civil Procedure 26(a) prior to the proposed January 31 initial pre-trial conference. Defendants agree with this proposal.

² Absent the Court's approval of that agreement, Rekor's deadline to respond would be December 4.

³ Absent the Court's approval of that agreement, the Counterclaim Defendants' deadline to respond would be December 10.

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This letter is the Rekor Parties' first request to extend the deadline for response to Defendants' affirmative defenses and counterclaims, and the second time a party has requested adjournment of the initial pre-trial conference.

Sincerely,

/s/ Sarah Michelle Gilbert

Sarah Michelle Gilbert

cc: (via ECF): Robert C. Boneberg
John J.D. McFerrin-Clancy

Application GRANTED. The
above schedule is adopted.

SO ORDERED.



11/20/2019

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE